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September 20, 2016

VIA ECF

Hon. Cheryl L. Pollak
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

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Re: *Faroque, et al. v. Park West Executive Services d/b/a/Town Car Int'l, et al.*
No. 1:15-cv-06868-DLI-CLP

Your Honor:

We represent the Defendants in the above-referenced matter. This letter responds to Plaintiffs' September 13, 2016 letter (Dkt. 62) renewing their request for a pre-motion conference regarding their anticipated motion for conditional certification under the Fair Labor Standards Act ("FLSA") and issuance of collective action notice, or for permission to file such a motion.

I. Plaintiffs' Request is Premature

On March 4, 2016, Defendants filed a pre-answer Motion to Compel Arbitration, Dismiss the Individual Defendants, and Stay Any Remaining Claims. (Dkt. 55.) On September 7, 2016, Your Honor issued her Report and Recommendation on the motion. (Dkt. 61.) Defendants have until September 21, 2016, to file objections to the Report and Recommendation, following which Judge Irizarry will consider the Report and Recommendation, along with any objections filed.

Following Judge Irizarry's determination on the motion, Defendants will have the opportunity to file an answer to Plaintiffs' complaint. The parties will then confer and set a schedule for the matter.

At this stage, to permit Plaintiffs to file a motion for conditional certification of an FLSA collective before Judge Irizarry even considers Your Honor's Report and Recommendation and any objections—and before Defendants' deadline to file an answer to the complaint—would be not only premature but a waste of time and resources for the Court and the parties. Therefore, their letter request should be denied with leave to file after the Court issues a decision regarding Defendants' motion or Defendants have answered the complaint, whichever is later.

II. Plaintiffs' Letter Request is Properly Directed to Judge Irizarry.

Motions for class or collective certification are properly directed to Judge Irizarry unless specifically referred to Your Honor by an order from Judge Irizarry. Currently, Judge Irizarry has only referred to Your Honor the pending Motion to Compel Arbitration, Dismiss the Individual Defendants, and Stay Any Remaining Claims and a prior pre-motion letter filed by



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Plaintiffs on December 29, 2015. (*See* Text Order dated June 16, 2016; Text Order dated January 4, 2016.) In both instances, Judge Irizarry issued text orders that were tied to specific docketed pleadings. (*Id.*) Therefore, absent an order from Judge Irizarry, Plaintiffs have not followed the proper procedures by directing their letter request to Your Honor.

III. Conclusion

For the reasons set forth above, Defendants ask that Your Honor deny Plaintiffs' request for a pre-motion conference.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Allan S. Bloom".

Allan S. Bloom

Courtesy copy to:

Chambers of Chief Judge Dora L. Irizarry